

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the County of Santa Cruz for an Order authorizing construction of an at-grade, public crossing across the tracks of Santa Cruz and Monterey Bay Railway (MP 12.55) in the County of Santa Cruz, State of California.

Application 14-04-010
(Filed April 4, 2014)

**DECISION AUTHORIZING THE COUNTY OF SANTA CRUZ TO CONSTRUCT
A NEW PUBLIC AT-GRADE HIGHWAY-RAIL CROSSING ACROSS THE
TRACKS OF THE SANTA CRUZ AND MONTEREY BAY RAILWAY AT
PARADE STREET IN UNINCORPORATED COUNTY OF SANTA CRUZ**

Summary

This decision grants the County of Santa Cruz authorization to construct a new public at-grade highway-rail crossing across the Santa Cruz and Monterey Bay Railway tracks at Parade Street in an unincorporated area of Santa Cruz County. The crossing will be identified as California Public Utilities Commission Crossing Number 017B-12.55, and United States Department of Transportation Number 968196X.

This proceeding is closed.

Discussion

The County of Santa Cruz (County) proposes to construct a new at-grade highway-rail crossing (crossing) across the Santa Cruz and Monterey Bay Railway (SCX) tracks at the new Parade Street. Construction of the crossing is part of the Aptos Village Project, which will provide a new commercial zone north of the SCX tracks.

On October 5, 2011, the County filed Application (A.) 11-10-011 to construct a new at-grade rail crossing at Parade Street. The rail owner at the time, Union Pacific Railroad Company (UPRR), and the rail operator, Sierra Northern Railway (SN), protested A.11-10-011. Subsequently, the County withdrew A.11-10-011, which the California Public Utilities Commission (Commission/CPUC) dismissed with Decision 12-06-018. Eventually, UPRR sold the rail line to the Santa Cruz Regional Transportation Commission (SCCRTC). SCCRTC contracted SCX to operate and maintain the rail line. SCCRTC and SCX support this application and imply that all previous issues, which were the subject of protest by UPRR and SN, have been resolved.

The County will construct several roadway and crossing safety improvements at the crossing to provide safety for pedestrian and bicycle traffic, and facilitate safer access between the new commercial development and Soquel Drive, the main roadway to the Aptos Village Project. The crossing is east of the Aptos Creek Road at-grade crossing and intersection with Soquel Drive, and west of the Trout Gulch Road at-grade crossing and intersection with Soquel Drive. Both roadways end in a T-intersection with Soquel Drive. Currently there is no freight or passenger service trains over the SCX tracks.

The County will include the following features in the construction of the crossing:

- Precast concrete panel crossing surface;
- Southbound Parade Street will be restricted to right turns only via signage and a painted porkchop median;
- Bicycle paths on both crossing approaches;
- Curb and gutter;

- Enhanced signing and pavement markings in compliance with the California Manual on Uniform Traffic Control Devices;
- One sidewalk through the west side of the crossing;
- Americans with Disabilities Act (ADA) compliant detectable warning tactile stripes at each pedestrian approach to the track;
- Two curb-mounted Commission Standard 9 (flashing light signal assembly with automatic gate arm) warning devices with additional pairs of flashing lights aimed for traffic along east and westbound Soquel Drive approaches;
- STOP sign-controlled intersection of Parade Street and Soquel Drive with Soquel Drive traffic having through movement. Southbound Parade Street motorists will stop prior to entering the crossing;
- Crosswalk with ADA compliant curb ramps and sidewalk landings at the Parade Street and Soquel Drive intersection;
- Closed pedestrian pathway on the southwest quadrant of the Parade Street crossing with a pedestrian barricade along with standard R9-3a “NO PEDESTRIAN CROSSING” signage to prevent trespassing along westbound Soquel Drive; and
- Closed the pedestrian pathway on the northeast quadrant of the Parade Street crossing with a pedestrian barricade along with standard R9-3a “NO PEDESTRIAN CROSSING” signage to direct pedestrians to the appropriate sidewalk through the crossing.

The County will install an additional loop detector interconnected with the Aptos Creek Road and Soquel Drive intersection on the westbound Soquel Drive approach. When activated, the loop detector will provide a green signal for

westbound Soquel Drive motorists to reduce congestion on Soquel Drive at the proposed Parade Street and at the existing at-grade Trout Gulch Road crossings.

The County will close two existing at-grade highway-rail crossings prior to opening the new Parade Street highway-rail crossing. The crossings are the Bayview Hotel private crossing, identified as CPUC Crossing Number 017B-12.51-X, United States Department of Transportation (DOT) Number 768266H, and the Davenport private crossing, identified as CPUC Crossing Number 017B-31.90-X, DOT Number 930981K. Both crossings will be closed by removing the standard crossing warning signs and roadway pavement adjoining the crossing and installing barricades parallel to the track.

Environmental Review and CEQA Compliance

The California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code Section 21000, et seq.) applies to discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to inform governmental decision-makers and the public about potential, significant environmental effects of the proposed activities. Since the project is subject to CEQA and the Commission must issue a discretionary decision in order for the project to proceed (i.e., the Commission has the exclusive authority to approve the project pursuant to Section 1202 of the Public Utilities Code), the Commission must consider the environmental consequences of the project by acting as either a lead or responsible agency under CEQA.

The lead agency is either the public agency that carries out the project,¹ or the one with the greatest responsibility for supervising or approving the project as a whole.² Here, the County is the lead agency for this project, and the Commission is a responsible agency because it has jurisdiction to issue a permit for the project. As a responsible agency under CEQA, the Commission must consider the lead agency's environmental documents and findings before acting on or approving this project.³ Also, as a responsible agency, the Commission is responsible for mitigating or avoiding only the direct or indirect environmental effects of those parts of the project which it decides to carry out, finance, or approve.⁴

The project to construct the Parade Street crossing is part of the larger Aptos Village Project. On November 16, 2009, the County issued an Environmental Review Initial Study (EIS) for the Aptos Village Project. On November 13, 2011, the County adopted a Mitigated Negative Declaration (MND) for the project. The County filed the Notice of Determination (NOD) on October 1, 2012 with the State Office of Planning and Research determining that

¹ CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(a).

² CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(b).

³ CEQA Guidelines, Sections 15050(b) and 15096.

⁴ CEQA Guideline Section 15096(g).

the project will not have a significant effect on the environment. Mitigation measures were made a condition for the project.

Impacts identified under CEQA, relating to the rail-crossing aspect of the overall project are within the scope of the Commission's jurisdiction. The EIS found that there would be no impact or a less-than-significant impact from the project, except for transportation/traffic, where the EIS found a less-than-significant impact with mitigation measures incorporation. The EIS required mitigation measures for intersections with an existing Level of Service (LOS) of E or F. The left turns from southbound Parade Street onto Soquel Drive will "operate at an unacceptable LOS." Mitigation measures include permitting only right turns for southbound Parade Street, and working with the SCX to address safety concerns.

The Commission finds the proposed mitigation measures feasible and reasonable. The Commission reviewed and considered the County's EIS, MND, and NOD as they relate to the at-grade crossing and finds them adequate for our decision-making purposes.

Filing Requirements and Staff Recommendation

The application is in compliance with the Commission's filing requirements, including Rule 3.7 of the Rules of Practice and Procedure, which relates to the construction of a public highway across a railroad.

The Commission's Safety and Enforcement Division – Rail Crossings and Engineering Branch has inspected the site of the proposed crossing, reviewed and analyzed the plans submitted with the application, and recommends that the requested authority to construct the subject crossing be granted for a period of three years.

Categorization and Need for Hearings

In Resolution ALJ 176-3334, dated April 10, 2014, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. There is no apparent reason why the application should not be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

Assignment of Proceeding

Elizaveta Malashenko is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on April 10, 2014.
2. The County requests authority, under Public Utilities Code Sections 1201-1205, to construct a new at-grade, highway-rail crossing across the SCX tracks at Parade Street in an unincorporated area of Santa Cruz County. The crossing will be identified as CPUC Crossing Number 017B-12.55, and DOT Number 968196X.
3. The County is the lead agency for this project under CEQA, as amended.
4. The County prepared an EIS, titled *Aptos Village Project*, dated November 16, 2009, for this project. The EIS determined the southbound Parade Street left-turn movements onto Soquel Drive would operate at an unacceptable LOS.
5. The County adopted the MND for the project on November 13, 2011.
6. On October 1, 2012, the County filed the NOD.
7. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's EIS, MND, and NOD.
8. The project will not have a potential significant effect on the environment.
9. Mitigation measures were made a condition of approval for the project.

10. Regarding transportation/traffic impacts, mitigation measures include restricting southbound Parade Street to right-turn only movements, and working with SCX to address safety concerns at the Parade Street highway-rail crossing.

Conclusions of Law

1. Safety, traffic, noise, and other impacts related to the highway-rail crossing are areas within the scope of the Commission's permitting process.

2. The Commission finds the mitigation measures adopted in the EIS reasonable and feasible.

3. The EIS, MND, and NOD reflect the Commission's independent judgment and analysis.

4. The EIS, MND, and NOD are adequate for our decision-making purposes.

5. The EIS, MND, and NOD were completed in compliance with CEQA.

6. The application is uncontested and a public hearing is not necessary.

7. The application should be granted as set forth in the following Order.

O R D E R

IT IS ORDERED that:

1. The County of Santa Cruz is authorized to construct a new public at-grade, highway-rail crossing across the Santa Cruz and Monterey Bay Railway tracks at milepost 12.55, in an unincorporated area of Santa Cruz County.

2. The new Parade Street at-grade public highway-rail crossing shall have the crossing treatments and configuration described above and specified in the application and its attachments. The new Parade Street at-grade highway-rail crossing shall be identified as California Public Utilities Commission Crossing Number 017B-12.55, and United States Department of Transportation Number 968196X.

3. The County of Santa Cruz shall close the Bayview Hotel at-grade private highway-rail crossing, identified as California Public Utilities Commission Crossing Number 017B-12.51-X, and United States Department of Transportation Number 768266H, prior to opening the new Parade Street crossing.

4. The County of Santa Cruz shall close the Davenport private crossing, identified as California Public Utilities Commission Crossing Number 017B-31.90-X, and United States Department of Transportation Number 930981K, prior to opening the new Parade Street crossing.

5. The County of Santa Cruz shall comply with all applicable rules, including California Public Utilities Commission General Orders, the United States Department of Transportation's Americans with Disabilities Act Standards for Transportation Facilities and the California Manual on Uniform Traffic Control Devices.

6. Santa Cruz and Monterey Bay Railway shall ensure that Emergency Notification Signs are installed to comply with Title 49, Code of Federal Regulation Section 234.309.

7. The County of Santa Cruz shall notify the California Public Utilities Commission's Safety Enforcement Division – Rail Crossings and Engineering Branch at least five business days prior to opening of the crossing for public use. Notification should be made to rceb@cpuc.ca.gov.

8. Within 30 days after completion of the work under this order, including all crossing closures, the County of Santa Cruz shall notify the California Public Utilities Commission's Safety and Enforcement Division – Rail Crossings Engineering Branch in writing, by submitting a completed California Public Utilities Commission Standard Form G (*Report of Changes at Highway Grade*

Crossings and Separations), of the completion of the authorized work. Form G requirements and forms can be obtained at the California Public Utilities Commission web site Form G page at <http://www.cpuc.ca.gov/PUC/safety/Rail/Crossings/formg.htm>. This report may be submitted electronically to rceb@cpuc.ca.gov as outlined on the web page.

9. Within 30 days after completion of the work under this order, the Santa Cruz and Monterey Bay Railway shall notify the Federal Railroad Administration of the existence of the new crossing and closure of the two existing crossings by submitting a United States Department of Transportation CROSSING INVENTORY FORM, form FRA F6180.71. A copy shall be provided concurrently to the California Public Utilities Commission's Safety and Enforcement Division – Rail Crossings Engineering Branch. This copy of the form may be submitted electronically to rceb@cpuc.ca.gov.

10. This authorization shall expire if not exercised within three years, unless time is extended or if the above conditions are not satisfied. The California Public Utilities Commission may revoke or modify this authorization if public convenience, necessity, or safety so requires.

11. A request for extension of the three-year authorization period must be submitted to the California Public Utilities Commission's Safety and Enforcement Division – Rail Crossings and Engineering Branch at least 30 days before the expiration of that period. A copy of the request must be sent to all interested parties.

12. The application is granted as set forth above.

13. Application 14-04-010 is closed.

This order is effective today.

Dated _____, at San Francisco, California.